

CHAPTER 39

**RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN - ANNUITY
TERMINATIONS AND REINSTATEMENTS**3901 **TERMINATIONS**

390101. **Time of Termination.** Entitlement to the RSFPP annuity terminates as of the end of the month that precedes the month in which eligibility ceases.

390102. **Reasons for Termination.** Terminate RSFPP annuity upon:

A. **Death of Widow or Widower.** Terminate payments the last day of the month that precedes the month in which widow or widower dies. If children are involved, see section 3902, below.

B. **Remarriage of Widow or Widower Before Age 60.** Terminate payments the last day of the month that precedes the month in which widow or widower, younger than age 60, remarries. If children are involved, see paragraph 390202, below.

C. **Loss of Eligibility by Child Annuitant.** Reasons for loss are:

1. Youngest child reaching age 18 and not incapable of self-support (applicable to children of members who retired before November 1, 1968).

2. Youngest child reaching age 18 and not pursuing a full-time course of study nor incapable of self-support (applicable to children of members retiring on or after November 1, 1968).

3. Youngest child who is pursuing full-time course of study, reaches age 23 and is not incapable of self-support (applicable to children of members who retired on or after November 1, 1968).

4. Marriage or death of child annuitant.

5. Recovery of an incapacitated child over age 18. Annuity may be suspended if the annuitant becomes independently capable of earning amounts sufficient for his or her own particular personal needs through substantial and sustainable gainful employment. The annuitant will receive advance written notice from DFAS prior to suspension. The annuitant will be given an opportunity to submit rebutting evidence. The annuity may be reinstated (see subparagraph 390202.B, below).

6. Termination of student status of a child over age 18, under age 23 (applicable only to retirees who retired on or after November 1, 1968).

7. Reinstatement to widow or widower of annuity previously terminated.

D. Secretarial Determination. Terminate payments the last day of the month preceding the month in which the Secretary of the Military Department concerned (or designee) determines that a participating member previously presumed to be dead is now alive.

390103. Due and Unpaid Annuity. If, on death of the annuitant, an amount remains payable to the annuitant, but is unpaid because the annuity checks were not negotiated or because payments had not been established, the account is settled in accordance with Chapter 31 of this volume. There is no designated beneficiary for settlement of arrears of an annuity.

3902 REINSTATEMENTS

390201. Remarriage Terminated by Death of Spouse and/or Remarriage of Widow or Widower Before Age 60 Terminated by Divorce. The annuity is not reinstated.

390202. Reinstatement of Annuities on Behalf of Children

A. If an annuity was terminated because of the death or remarriage of the widow or widower before age 60, and the member's election also included coverage for children, reestablish the full annuity in equal shares in favor of the eligible children (see Chapter 37). The effective date is the first day of the month in which the death or remarriage of the widow or widower occurred.

B. An annuity to an incapacitated child over 18 years of age may be reinstated upon either a recurrence of the original disability that rendered the annuitant incapable of self-support or upon receipt of evidence from the annuitant that, although engaged in substantial and sustainable gainful employment, wages are not sufficient to cover his or her particular needs.

390203. Termination of Remarriage by Annulment

A. Annulment of a "Void" Marriage:

1. The annuity may not be reinstated for any period earlier than the date of separation after the discovery that the marriage was void.

2. The annuity may not be reinstated for any period in which annuity payments were made on behalf of children under option 3 (when notice is received that the widow or widower's remarriage was void, payment to the children under option 3 is suspended pending resolution of the issues involved).

3. In the absence of a judicial decree terminating the marriage as void, the case must be sent to the Defense Office of Hearings and Appeals for decision.

B. Annulment of a "Voidable" Marriage. The annuity may not be reinstated when a voidable marriage is annulled.

390204. Reinstatement of Annuities Terminated Before Oct 1, 1978 Because of Remarriage of Widow or Widower After Age 60. If the annuity was terminated because of remarriage, and the widow or widower was 60 years of age or older, the annuity may be reinstated not earlier than October 1, 1978. The annuity will be increased by cost-of-living adjustments, if appropriate, in accordance with paragraph 370802 of this volume.